Ref. No. 355

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA, Complainant,	)	
v.	)	8 U.S.C. §1324a Proceeding Case No. 91100065
BUBBLE FASHIONS CO., INC., D/B/A HIGH-TIDE FASHIONS, Respondent.	)	

DECISION AND ORDER GRANTING
JUDGMENT BY DEFAULT
(July 18, 1991)

MARVIN H. MORSE, Administrative Law Judge

Appearances: Chester J. Winkowski, Esq., for Complainant.

The Immigration Reform and Control Act (IRCA), Pub. L. No. 99-603, 100 Stat. 3359 (codified at 8 U.S.C. §1324a) (1986), at section 101, enacted section 274A of the Immigration and Nationality Act, introducing an enforcement program designed to implement employer sanctions provisions prohibiting the employment of aliens, and requiring compliance with e verification requirements in the administration of the sanctions program.

The Immigration and Naturalizatic
Complainant) on April 19, 1991, filed in
dated April 16, 1991. The Comp
underlying Notice of Intent to
upon Bubble Fashions Co.,
(Respondent) on November 2, 1990
Respondent violated IRCA by kno
employ twelve (12) named individ
with twenty-one (21) paperwork
and/or make available for insp
verification form (Form I-9).
aggregate of five (5) paperwor
ensure that employee prope
Respondent's failure to properl
I-9.

INS demands civil money pen
amount of $44,250. Exhibit B
November 27, 1990 request for a

On April 22, 1991 this Office issued a Notice of Hearing which transmitted the Complaint to Respondent. The Notice contains an admonishment that failure by Respondent to file an Answer with me as the assigned administrative law judge within thirty days after receipt by it of the Complaint may be deemed a waiver of the right to appear and contest the allegations of the Complaint. Respondent is explicitly warned of the possibility, absent a timely Answer, that the judge might "enter a judgment by default along with any and all appropriate relief."

The Notice of Hearing was served on Respondent April 29, 1991, by certified mail as confirmed by the signed delivery receipt returned to this Office by the U.S. Postal Service.

By motion dated June 17, 1991, filed June 26, 1991, Complainant asserts that Respondent is in default of its obligation to file timely an Answer to the Complaint and asks for entry in its favor of a decision and order on default. Complainant, by counsel, certifies that a copy of the motion, and declaration of counsel reciting grounds for default was served on Teddy Choi as President of Respondent on June 19, 1991. Complainant tenders also a proposed Order of Default.

As in prior cases, in order to permit Respondent an opportunity to explain its failure to have timely answered the Complaint, I issued an Order on June 27, 1991 inviting Respondent to show cause why a judgment on default should not be entered against it. See, e.g., U.S. v. Jay Lee Fashions, Inc., OCAHO Case No. 91100019 (5/6/91); U.S. v. Lee & Young Co., Inc., OCAHO Case No. 90100348 (4/17/91); U.S. v. Huggems, Inc., OCAHO Case No. 91100008 (4/15/91); U.S. v. Elena Finishing, Inc., 1 OCAHO 132 (2/22/90); U.S. v. Elsinore Manufacturing, Inc., 1 OCAHO 5 (5/20/88). I granted Respondent until July 12, 1991 to respond to the Order and to file its proposed answer. To date I have received no pleading or other response from Respondent.

The Rules of Practice and Procedure of this Office state that a respondent shall file an answer within thirty (30) days after service of a complaint, 28 C.F.R. §68.8(a), and that the administrative law judge may enter a judgment by default if a respondent fails to file its answer within the time provided. 28 C.F.R. §68.8(b). See U.S. v. Prime Landscape Management, Inc., 1 OCAHO 204 (7/25/90). My Order of June 27 and the Notice of Hearing advised Respondent to the same effect. Respondent has neither filed an answer nor any other pleading as of the date of this Decision and Order. Accordingly, I find Respondent in default, having failed to plead or otherwise defend against the allegations of the Complaint.

ACCORDINGLY, IN VIEW OF ALL THE FOREGOING, IT IS FOUND AND CONCLUDED, that, as alleged in the Complaint, Respondent is in violation of 8 U.S.C. §1324a(a)(1)(A) for knowingly hiring the twelve (12) named individuals in Count I. See U.S. v. Taewon Fashion Corp., OCAHO Case No. 90100231 (11/30/90) (on default only one finding of liability will be made when charges are alleged in the alternative).

Respondent is also in violation of 8 U.S.C. §1324a(a)(1)(B) for failure to comply with the employment eligibility verification requirements as to the twenty-one (21) individuals named in Count II, the two (2) individuals named in Count III, the one (1) individual named in Count IV, and the two (2) individuals named in Count V of the Complaint.

IT IS HEREBY ORDERED:

1. that Respondent pay a civil money penalty in the amount of forty-four thousand two hundred and fifty dollars ($44,250.00) for the violations charged in the Complaint;

2. that Respondent cease and desist from further violating 8 U.S.C §1324a(a)(1)(A); and,

3. that the hearing in this proceeding is canceled.

This Decision and Order Granting Judgment by Default is the final action of the judge in accordance with 28 C.F.R. §68.51(a). As provided at 8 U.S.C. §1324a(e)(7), this action shall become the final decision and order of the Attorney General unless, within thirty (30) days from the date of this Decision and Order the Chief Administrative Hearing Officer, upon request for review, shall have modified or vacated it.

SO ORDERED.

Dated this 18th day of July, 1991.

Marvin H. Morse
Administrative Law Judge

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